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ABSTRACT

A study examined legal and ethical considerations used by school administrators in decision making. A national survey of 306 elementary and secondary principals and district superintendents yielded 226 responses. The survey instrument examined administrators' ability to make ethical and legal decisions and described their reported decision-making patterns in conflicting legal/ethical situations. Findings indicate that administrators made appropriate ethical and legal decisions when issues were distinct and made appropriate ethical decisions more often than they did legal decisions. In situations of ethical/legal conflict, an ethical but illegal decision-making pattern emerged. Administrative level was also a factor--secondary principals chose ethical/illegal options more frequently than did their elementary counterparts. In administrative preparation programs students usually engage in preparatory courses in law but not in ethics. This paper suggests that a focus on ethics would be an added dimension that could strengthen administrative preparation nationwide. Five tables are included. (21 references) (LMI)

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ETHICS OR THE LAW: WHAT DRIVES ADMINISTRATIVE DECISIONS?

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Running Head: ETHICS OR LAW

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ETHICS OR THE LAW: WHAT DRIVES ADMINISTRATIVE DECISIONS?

ABSTRACT

To examine conditions under which administrators adhere more closely to moral principles or legal constraints when dilemmas arise, an instrument was designed, piloted and distributed to a national sample of elementary principals, secondary principals and district superintendents. The survey assessed the administrator's ability to make ethical and legal decisions as well as their reported behavior decision pattern (ethical/illegal, legal/unethical, unethical/illegal) when ethical and legal options were in conflict.

Findings are quite clear. Administrators can make both legal and ethical decisions; when ethical and legal choices conflict in decision situations, clearly the ethical over the legal choice is made.

ETHICS OR THE LAW: WHAT DRIVES ADMINISTRATIVE DECISIONS?

An important and intertwining relationship exists between ethics and law. In a society's pursuit of shared goals, laws and policies are established to help accomplish objectives and resolve conflicts. At the same time, each individual responds to situations from a personal, social, professional and ethical experiential base. These moral and ethical considerations are as important as legal guidelines because not all critical issues are covered by law.

There has been a recent revival of interest in the ethics of persons holding public positions, but historically people have been concerned with such conduct. From the beginning of civilization, a vast body of rules, regulations, and laws have been accumulated to regulate the actions of persons (Gauerke, 1959). As far back as 400 B.C., Hippocrates, the renowned physician in ancient Greece, wrote a code of conduct for his students that set forth a physician's duties to the patient and duties to other members of the guild or profession of medicine (Mappes & Zembaty, 1981).

Despite the historical concern of society's members with the ethics of persons in public positions, there has been no universal consensus on what rules should apply to such persons. Agreement has been substantial in monolithic societies, whose laws, religious beliefs, ethical beliefs of individuals, and other regulations are consistent with one another. However, starting in the nineteenth century, Western nations began developing into pluralistic societies. "The larger the pluralism actually is in a society, the more likely there will be disagreement among society's members over the standards by which the conduct of persons are to be judged" (Heslep, 1988, p. 3). In these nations, then, personal ethical beliefs, religious canons, laws,

and other regulations oppose one another on occasion.

Personal ethics are acquired by individuals through a socialization process. They are formed from parental and family values, religious training and beliefs, and the lessons learned from experiences (Bass, 1987). As a result, the nature of a person's ethical belief system depends upon the nature of the values internalized.

Professions have adopted codes to help regulate their members, established boards to review ethical conduct of members, and designed courses in professional ethics as part of the formalized training and socialization of members. However, when the public has believed a profession has not regulated adequately its behavior, relief has been sought through governmental intervention (Heslep, 1988). Therefore, laws and court decisions have been made to help regulate actions and solve conflicts.

"The school is far more complex in the ethical relationships it harbors than any other institution that Man has developed" (Corson, 1985, p. 125). These complexities have emerged from technological advances, equal rights, changed values and morality, drugs, and urban/suburban crisis (Faily, 1980). Within this complex environment conflicts are inevitable. Additionally, numerous regulatory guidelines have permeated education in recent years, and these legal demands are sometimes conflicting to each other and to the ethical principles of the individual and the profession. These conflicts often make decisions in the educational work place very difficult. Increasingly, administrators in educational organizations are confronted with critical decisions that require both legal and ethical consideration, and decisions that confound legal and ethical parameters.

Statement of the Problem

The actions of educational administrators are guided not only by

personal ethics but also by professional codes of ethics, policy, law, and court decisions. Disclosing information about a student can create a conflict between the teacher's need to know and the student's right to privacy. Searching without just cause can infringe upon a person's privacy but maintaining a safe learning environment is an obligation to the school community. It is when these legal and ethical forces are in conflict, that dilemmas in decision making occur. Should the response be legal first, ethical at all time, or does the situation and who will know about the decision affect the decision made? The choices may be all of the above or none. What then drives administrative decision making?

Purpose

Often appropriate administrative decisions are clearly defined. The correct choice is both ethical and legal. However, a dilemma in decision making can arise when an action might be ethical but illegal or legal but unethical. The purpose of this study was to determine, when given a choice, if educational administrators could make ethical and legal decisions, and to determine the differences, if any, between those forces by examining decision patterns from conflictual decisions situations. Additionally, demographic data were analyzed to determine what independent variables, if any, affected these ethical and legal administrative decisions.

Research Questions

Answers to the following questions served as a focus for this study:

1) When given ethical and unethical choices, can administrators make ethical decisions?
2) When given legal and illegal choices, can administrators make legal decisions?

3) Is there a difference in the ability to make ethical and legal decisions?

4) When ethical/legal conflicts exist, which choice patterns emerge (ethical/illegal, legal/unethical, or unethical/illegal)?

5) How do the variables of administrative level, gender, age, school population, district population, and degrees held affect ethical/illegal choices, legal/unethical choices, and conflictual choices?

Importance of the Study

Educational leaders are charged with the responsibility of adhering closely to a legal framework bound by federal and state constitutional, statutory, and case law. Decisions must be made in accordance with the law. With the vast number of legal decisions that have impacted schools in the past few years, at times these laws may seem insurmountable, restrictive and not in the best interest of an individual or the total school community. There is often a problem in determining what is the "right thing to do" in a given situation. "An educator's action might be legal but unethical or ethical but illegal" (Stern & Gathercoal, 1987, p. 15). If the well-being of students is to be the fundamental value of decision making for administrators, legal and ethical conflicts arise.

The need for ethics preparation and further research in educational administration ethics has been stressed repeatedly. Most preparatory programs in educational administration offer a course in educational law but include consideration of professional ethics as a session in an introductory preparatory course (Ashbaugh & Kasten, 1984). In addition ethical, leadership has not been a formal part of administrative training (Calabrese, 1988). But,

> many of today's key issues and problems for administrators cannot be readily resolved by applying managerial techniques which are now in vogue. It is imperative that we begin to recognize the importance of values in educational administration. (Sharples, 1985, p. 18)

"The contemporary study of school administration must begin to take into account in a serious way the influence of values and ethics on decisions made in and about schools" (Stout, 1986, p. 198). "Despite renewed interest in ethics over the last decade, ethics education remains diffused" (Hejka-Ekins, 1988, p. 886).

The literature in educational administration provides little ethical guidance. Examination of past issues of Educational Administration Quarterly showed scant attention to ethical concerns. Ashbaugh and Kasten (1984) examined 347 articles in 60 issues of the journal from 1965. Using generous interpretation of ethics, fewer than 7% of the articles were identified as related to ethical issues in education. Schwen (1988) suggested that moral principles and moral reasoning in the context of professional behavior be studied through professional literature and training programs.

The need for this study was developed from the theory that the value based aspect of decision making, not the technical, is what makes administration difficult. When legal and ethical choices are in conflict, decisions are even more difficult. The problems become dilemmas when two apparent goods come into conflict. It is these dilemmas which call for legal and ethical consideration that were the focus in this study. By reflecting upon what determines administrative choices and subsequent actions, it is believed that educational administrators can improve their quality of judgment in legal and ethical decision making.

Procedures

Sample

Elementary principals, secondary principals, and school district superintendents were randomly selected by administrative level from each state and the District of Columbia (n = 306).

Instrumentation

Professional ethics and legal issues relate to and come from professional settings; therefore, it seemed appropriate to examine the status the decision process through hypothetical case studies that involve issues faced by educational administrators. Since the subjects in the sample resided throughout the United States, a questionnaire was used to obtain the necessary data.

A survey instrument was designed which consisted of 15 scenarios with response options and a demographic section. One section contained three ethical/unethical decision situations and respondents were directed to select the most ethical decision. A second section contained three legal/illegal decision situations and respondents were directed to select the response that best represents the most appropriate legal choice. The purpose of these two sections was to determine if administrators could make both ethical and legal decisions.

A third section contained nine decisions depicting a legal/ethical conflict. Each situation established a condition for a borderline decision, and respondents were forced to choose between an ethical but illegal decision, legal but unethical decision or an illegal and unethical decision. The final section asked participants to provide demographic data which included administrator level, gender, age, size of school, size of school district, years of service as administrator, highest degree held and ethics preparation.

A question addressing a course on ethics during graduate work in school administration was also included.

In Section I, for each case, the respondent was directed to select the most ethical decision response from a list of four or five choices. These scenarios replicated three used in a study by Dexheimer (1969). Dexheimer's questions were based upon actual experiences taken from periodicals such as School Management and the School Board Journal and from oral sources, primarily administrators known to Dexheimer. For each question there was one response which corresponded closely to a standard in the 1966 AASA Code of Ethics. All other responses ranged from less ethical to unethical, as judged by the code. Hyle (1989) revised Dexheimer's instrument according to the Statement of Ethics for School Administrators (American Association of School Administrators, 1981) and replicated the study with an expanded sample. The three scenarios that solicited the greatest percentages of ethical responses in Hyle's study were used as the ethical anecdotal situations for this research project.

In Section II, for each case, the respondents were to select the answer that represented the correct legal decision. The responses included legal and illegal choices. The legal case studies and responses were founded in federal and state constitutional, statutory, and case law. They were developed from case studies in the NASSP Bulletin, Journal of School Law, School Management, School Board Journal and from the experiences of practicing administrators known by the researcher.

Section III contained nine dilemmas which presented ethical and legal decision conflicts for the administrator. The ethical decision responses were designed to reflect the standards of the Statement of Ethics for School Administrators (AASA, 1981), and the legal decision responses were founded in

federal and state constitutional, statutory, and case law. Each scenario established the conditions for a borderline decision. The respondent was asked to select the choice that would represent the solution he or she would implement in that situation.

Procedures

Following instrument design, the survey was piloted with a class of educational administration students and administrators from the Putnam City and Edmond School Districts in Oklahoma. These individuals commented on clarity of language and grammar usage and provided their perceptions about the decision situations from the view of practicing administrators. Their input was used to refine the instrument which was mailed to the national sample of respondents in the fall of 1989.

After two mailings, a final return rate of 74.8% was achieved. The secondary principals had the highest rate of return with 83%, and the elementary principals the least with 65%. Responses were received from all fifty states and the District of Columbia. The return rate ranged between two samples from the District of Columbia and two states to all six samples from ten states.

Analysis

Data analysis used descriptive and inferential statistics. For the first two sections of the study, mean scores were used to determine if predominately ethical and legal choices could be made by administrators. In each decision situation, respondents were given one point for each correct response. A mean of 1.5 or greater for each of the first two sections on the questionnaire indicated that administrators could make ethical and legal choices. Paired samples T-test was used to determine the difference, if any, between the ability to make ethical and legal choices. A .05 level of

significance was established.

The dominant conflict decision pattern was examined in two different ways. Three paired sample T-tests were used to compare the means for the ethical/illegal and legal/unethical decision patterns, the ethical/illegal and unethical/illegal decision patterns, and the legal/unethical and unethical/illegal decision patterns.

Also, legal responses were subtracted from the ethical responses, then analysis of variance was used to see if there was a significant difference between ethical/illegal and legal/unethical responses by administrative level, age, gender, school population, district size, highest degree held and ethics preparation. The Tukey (HSD) Test (alpha = .05) was used to establish the critical range. A Bartlett Test for homogeneity of group variances confirmed equal variance for each independent variable.

Findings

Demographic Data

Male administrators outnumbered female administrators four to one and the percentage of female administrators decreased as administrative level increased. Elementary male principals outnumbered female principals two to one. Secondary male principals outnumbered their female counterparts four to one, and male superintendents outnumbered female superintendents ten to one.

Overall, the mean age of an administrator rose by administrative level. The mean age for an elementary principal was 45.6, ranging from 30 to 60; the mean age for a secondary principal was 47.6, ranging from 32 to 62; and the superintendents' mean age was 48.5, ranging from 29 to 63.

Schools were categorized into four groups: 1) 0-249, 2) 250-499, 3) 500-999, and 4) 1,000+. Not surprisingly, the secondary administrators were principals in schools that were generally larger in size than the schools of

the elementary principals. The average elementary school population mean approximately 300 (mean = 2.246) and the average secondary school was approximately 400 (mean = 2.688). The smallest elementary school had a population of 125 and the largest 1,200. The smallest secondary school was comprised of 105 students and the largest had 2,100 students.

Concerning degrees, the highest level degrees were held by superintendents, 43% held an EdD or PhD. Ten percent of the secondary principals and 9% of the elementary principals held an EdD or PhD degree. Again, the higher the administrative level the higher percentage of doctoral degrees among the respondents.

When comparing administrative levels by ethics preparation, approximately half of the elementary and secondary principals received formal ethics preparation. However, 60% of the superintendents indicated formal ethics preparation. Table 1 presents additional demographic data.

Can Administrators Make Ethical and Legal Decisions?

In each ethical decision situation, the response choices included one ethical choice and other responses that were unethical according to the AASA Code of Ethics (1981). One point was given for each correct response; therefore, the mean for possible correct responses could range from 0 to 3. A score of 1.5 or greater established that administrators could make the ethical choice the majority of the time.

A mean ethical score of 2.619 for the total group of 226 respondents was greater than 1.5, so the data indicated that administrators can make an ethical response the majority of the time. The mean score for each level was also above 1.5. The secondary principals had the highest (mean = 2.699) and superintendents (mean = 2.500) had the lowest. Table 2 presents these data.

In each legal decision situation, the response choices included one

legal choice and other responses that were illegal according to United States Constitution, federal law, and case law. Again, one point was given for each correct response; therefore, the mean for possible correct responses could range from 0 to 3. A score of 1.5 or greater established that administrators could make the legal choice the majority of the time.

A mean score of 1.925 for the 226 responses was greater than 1.5, so the data analysis confirmed that administrators could make the legal choice the majority of the time. All levels had a mean greater than 1.5. The elementary principals selected the correct response most often (mean = 2.062) and the superintendents had the least (mean = 1.795) success. Table 2 presents these data.

A paired samples T-test was used to compare the means of the ethical and legal responses. A significant difference between ethical choices and legal choices was found at the .05 level of significance. The data revealed the respondents were able to select the ethical choice with significantly greater accuracy than the legal choice (Table 3).

What Decision Patterns Emerge in Conflicting Decision Situations?

To answer this question, in each of nine administrative decision situations an ethical/legal dilemma was created. A response conflict was established to force a choice between ethics and the law to determine which force drives administrative decisions when a decision conflict arises.

Three paired sample T-tests were used to analyze this data. The first test compared the means of the ethical/illegal and legal/unethical decision pattern responses, the second compared the means of the ethical/illegal and unethical/illegal decision pattern responses, and the third compared the means of the legal/unethical and unethical/illegal decision pattern responses. Table 4 reports these findings.

The data revealed a significant difference in the mean scores between ethical/illegal and legal/unethical decision patterns at the .05 level of significance. The ethical/illegal response was selected significantly more often than the legal/unethical choice pattern (see Table 4).

A significant difference was also found between the ethical/illegal and unethical/illegal scores at the .05 level of significance. The ethical/illegal decision pattern was selected significantly more often than the unethical/illegal choice pattern (see Table 4).

A significant difference was also found between legal/unethical and unethical/illegal choices at the .05 level of significance. The legal/unethical decision pattern was selected significantly more often than the unethical/illegal decision pattern (see Table 4).

From the results obtained through the analysis of data, when there was a conflict in ethical and legal decision making, the ethical/illegal choice pattern dominated. Only when compared to unethical/illegal choices did the legal/unethical choice pattern emerge.

What Demographic Factors Affect Decision Patterns?

To answer this question, a difference score was computed to help analyze the data. For each respondent, the number of legal responses was subtracted from the number of ethical responses. The range could be from +9 to -9. A positive score would represent an ethical choice in decision patterns, and a negative score would represent a legal choice.

When comparisons were made by gender, age, school size, district size, highest degree held, and ethics preparation, no significant difference was found in conflict decision patterns.

Analysis of variance revealed a significant difference in decision patterns by administrative level. Equal variances were established with the

Bartlett Test and the Tukey (HSD) test (alpha = .05) indicated that the critical range for pairs of means was 1.207. There was no difference found between elementary principals (mean = 1.723) and superintendents (mean = 2.679) or between secondary principals (mean = 3.473) and superintendents (mean = 2.679). However, there was a significance between elementary principals (mean = 1.723) and secondary principals (mean = 3.473); secondary principals make more ethical/illegal decisions than their elementary counterparts. See Table 5 for these data.

Conclusions

Ethics and ethical leadership are the foundations of educational administration. Although ethical training has not been a formal part of educational administration curriculum, it is assumed that administrators are committed to ethical behaviors and are competent in an ethical and professional sense. The Statement of Ethics for School Administrators (AASA, 1981) has been created to legitimate the profession and give educational administrators a guideline to assist them in making decisions. However dilemmas do emerge when laws, regulations, and guidelines are imposed that conflict with ethical principles. The astute leader reflects on issues, examines the conflict from different perspectives, determines if ethical and legal considerations exist, and proceeds to make decisions that uphold self-respect as well as public trust and confidence.

The findings of this study indicate that administrators make appropriate ethical decisions and legal decisions when the issues are distinct; and they make appropriate ethical decisions significantly more often than legal decisions. It is possible that the ethical choice was more clearly identifiable than the legal choice. This might be attributed to the fact that the three ethical scenarios selected from Hyle's (1989) study were the ones

that elicited the greatest percentage of ethical responses in that study. The legal case studies were developed for this study and had not been previously tested. It is also possible that the correct legal choice is more difficult for administrators to recognize. With the vast number of laws that have impacted education in the last 30 years (Hawkins, 1986), it is difficult for administrators to keep abreast with all the legal boundaries. Also, the interpretations of laws can be very difficult, diffused, and unique to a given legal jurisdiction.

When conflict exists between ethical and legal choice options, an ethical but illegal decision pattern emerged. This finding has a major significance. It supports the belief that it is the ethical principles, not the technical aspect of educational administration, that drive administrative decisions (Foster, 1986; Peach & Reddick, 1986).

There was also a significant difference in ethical/illegal and legal/unethical decision patterns when respondents were categorized by administrative level; secondary principals chose an ethical/illegal decision pattern more consistently than did their elementary counterparts.

No other demographic variables were shown to significantly affect decision patterns. This finding is consistent with earlier research (Dexheimer, 1969; Hyle, 1989). Perhaps in future studies it might be more beneficial to examine the history and personality traits of the individual administrators rather than simple demographic data pertaining to the respondents.

Although no significant findings resulted from a comparison of decision patterns when respondents were categorized by ethics course work during professional training, numerous comments were made in the survey by respondents concerning the inadequacy of ethical preparation for their

administrative role. It would appear that there is a need to give serious attention to ethical issues and ethical aspects of decision making in school administration preparatory programs. Legal aspects are covered in special courses dealing with educational administration, but ethical issues are generally addressed only as a part of other coursework and on an informal basis. This supports Callahan and Bok's thought that "courses in ethics should make it clear that there are ethical problems in personal and civic life ... and that there are better and worse ways of trying to deal with them" (1980, p. 62).

Discussion

From this study it is evident that ethics play a major role in educational administrative decisions. Although laws and court cases have made a significant impact on public schools in recent years, this study has provided additional data to support the fact that individuals still respond to situations from a personal, social, and professional experiential base as well as a legal base.

It is interesting to note that educational administrators still seem to lean toward the ethical aspects of decision making even though in administrative preparation programs students usually engage in preparatory courses in law but not in ethics. This practice might be attributed to the belief that ethics are permanent but the law is changing. By the time a person is an adult, personal ethics have developed from family values, religious training and beliefs and through personal experience. However, laws are continually subject to change. Therefore, formal legal preparation may be more essential than ethical preparation. Since this study supports the heavy reliance on ethics in decision making, it is believed a focus on ethics would be an added dimension that could strengthen administrative preparation

programs nationally.

The scenarios in this survey instrument presented problems that were borderline decision situations. If the law were overlooked, the consequences might not be extremely severe for the administrator for one isolated incident. This may have influenced the decision pattern that emerged. However, in daily decision choices for the administrator, it is the choices that can be called either way that are so difficult. A single ethical decision can result in litigation. A single legal decision can result in an ethical atrocity. It is the daily encounters that occur in the school setting which require ethical preparation and knowledge of the law to make the correct choice for a given situation that are so critical. They are critical because a secure educational environment is achieved through thousands of decisions over a long period of time.

One must remember that individuals and schools are both complex and unique; therefore, there is no one right choice or simple solution to many of the dilemmas within education. Educators must continually strive to make decisions that not only enhance the goals of the institution but also take into consideration the worth and uniqueness of an individual. Perhaps the question as to what drives administrative decisions is best summarized by Evers (1985):

> Making the morally right decision involves more than considering feeling, counting people, or calculating consequences. It requires, ultimately an attitude of disinterest to outcomes and non-attachment to rewards, according priority to duty and commitment to moral principles. (p. 39)

The findings of this study would indicate that it is the consequences of living with one's own conscious and ethical beliefs that influences and plays

a dominant role in decision making. Perhaps, ultimately, it is not the making of decisions that is hard, but it is living with the consequences of those decisions that is difficult.

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Table 1

Demographic Data for Respondents

Variable	N	Response Code	Frequency	Percentage
Level	226			
(1)		Elementary Principal	65	28.8
(2)		Secondary Principal	83	36.7
(3)		Superintendent	78	34.5
Gender	226			
(1)		Male	181	80.1
(2)		Female	45	19.9
Age	226			
(1)		25-34	7	3.1
(2)		35-44	83	36.7
(3)		45-54	99	43.8
(4)		55+	37	16.4
School Size	156			
(1)		0-249	23	14.7
(2)		250-499	49	31.5
(3)		500-999	54	34.6
(4)		1,000+	30	19.2
District Size	226			
(1)		0-999	51	22.5
(2)		1,000-2,999	61	27.0
(3)		3,000-9,999	65	28.8
(4)		10,000+	49	21.7
Highest Degree	226			
(1)		Masters	179	79.2
(2)		EdD, PhD	47	20.8
Ethics Preparation	226			
(1)		No	105	46.5
(2)		Yes	121	53.5

Table 2

Mean Scores for Ethical and Legal Choice Options

Source	N	Mean Ethical	Mean Legal
Total Group	226	2.619	1.925
Elementary	65	2.662	2.062
Secondary	83	2.699	1.940
Superintendent	78	2.500	1.795

Table 3

Paired Samples T-Test for Ethical versus Legal Decisions

Source	df	Mean	sd	mean diff	T	Prob
Ethical	225	2.619	.943	.0695	11.079	.000*
Legal		1.925				

* Significant < .05

Table 4

Paired Samples T-Test for Conflict Decision Situations

Source	df	Mean	sd	mean diff	T	Prob
Ethical/Illegal	225	5.646	3.250	2.690	12.445	.000*
Legal/Unethical		2.956				
Ethical/Illegal	225	5.646	1.750	5.416	46.531	.000*
Unethical/Illegal		.230				
Legal/Unethical	225	2.956	1.800	2.726	22.764	.000*
Unethical/Illegal		.230				

* Significant <.05

Table 5

Analysis of Variance for Conflict Decision Patterns

by Administrative Level

Source	df	Sum of Squares	Mean Squares	F Ratio	Prob
Level					
Between Groups	2	111.722	55.861	5.589	.004*
Within Groups	223	2228.684	9.994		

* Significant <.05
Critical Range: 1.207 (Tukey HSD, alpha = .05)